

Chapter 3.40

COMMUNITY ENRICHMENT LIBRARY FEE

(2297-6/78, Urgency Ordinance 2299-7/78, 2324-11/78, 2720-9/84, 3751-11/06, 3827-4/09, 3879-6/10)

Note: Ordinance No. 3827 (expired 4/15/10) and Ordinance No. 3879, effective from 5/3/10 to 5/3/11, temporarily defer the payment of certain Development Impact Fees.

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3.40.010 Declaration of necessity. The City Council finds that the rapid development of land in the city of Huntington Beach has created a need for improvements and facilities for the public city libraries, which cannot be met by the ordinary revenues of the city. The need for such improvements results directly from the increase in density in the city by the development of land that has heretofore been vacant and by construction of additional residential, commercial and industrial units on land heretofore developed. The most practical and equitable method of collecting the funds necessary to provide such public improvements is to impose an excise tax upon the construction of new residential, commercial and industrial units or buildings in the city. (3827-4/09, 3879-6/10)

Note: Ordinance No. 3827 (expired 4/15/10) and Ordinance No. 3879, effective from 5/3/10 to 5/3/11, temporarily defer the payment of certain Development Impact Fees.

The City Council of the city of Huntington Beach hereby declares that this Chapter shall be known as the "Community Enrichment Library Fee" and is adopted to provide a tax upon the construction of new residential, commercial and industrial units or buildings in the city.

(2297-6/78, 3827-4/09, 3879-6/10)

Note: Ordinance No. 3827 (expired 4/15/10) and Ordinance No. 3879, effective from 5/3/10 to 5/3/11, temporarily defer the payment of certain Development Impact Fees.

3.40.020 Definitions. For the purpose of this Chapter, the words defined in this section shall have the meanings assigned to them unless from the context it appears that a different meaning is intended. Words not defined in this section shall have the definitions as given in the Huntington Beach Building Code. (3827-4/09, 3879-6/10)

Note: Ordinance No. 3827 (expired 4/15/10) and Ordinance No. 3879, effective from 5/3/10 to 5/3/11, temporarily defer the payment of certain Development Impact Fees.

- (a) Residential unit. The term "residential unit" shall mean a single-family dwelling, a dwelling unit in a duplex, apartment house or dwelling group, and any other place designed for human occupancy which contains a kitchen, and any space in a mobilehome park designed or intended for a house trailer, mobilehome, camper or similar vehicle. (3827-4/09, 3879-6/10)

Note: Ordinance No. 3827 (expired 4/15/10) and Ordinance No. 3879, effective from 5/3/10 to 5/3/11, temporarily defer the payment of certain Development Impact Fees.

- (b) Commercial unit. The term "commercial unit" shall mean any space in a building or structure designed or intended to be occupied or used for business or commercial purposes, including sleeping rooms in hotels and motels without kitchens or kitchen facilities. (3827-4/09, 3879-6/10)

Note: Ordinance No. 3827 (expired 4/15/10) and Ordinance No. 3879, effective from 5/3/10 to 5/3/11, temporarily defer the payment of certain Development Impact Fees.

- (c) Industrial unit. The term "industrial unit" shall mean any space in a building or structure designed or intended for manufacturing, processing, research, warehousing and similar use.

(3827-4/09, 3879-6/10)

Note: Ordinance No. 3827 (expired 4/15/10) and Ordinance No. 3879, effective from 5/3/10 to 5/3/11, temporarily defer the payment of certain Development Impact Fees.

- (d) Mobilehome park. The term "mobilehome park" shall mean any area where one or more lots or spaces are owned or rented or held out for rent to be occupied by a house trailer, mobilehome, camper or similar vehicle. (2324-11/78, 3827-4/09, 3879-6/10)

Note: Ordinance No. 3827 (expired 4/15/10) and Ordinance No. 3879, effective from 5/3/10 to 5/3/11, temporarily defer the payment of certain Development Impact Fees.

3.40.030 Excise tax.

- (a) Tax imposed. An excise tax is hereby imposed upon the construction of any such residential, commercial and industrial unit, and mobilehome park in the city as such groups of construction may be established by resolution. The amount of the excise tax shall be established by resolution of the City Council and shall not exceed \$.15 per square foot of floor area, as defined in the Huntington Beach Building Code, for all classes of new construction, including any area in a building designed for the parking of vehicles except for square footage within a parking structure containing required on-site parking. For mobilehome parks, the square footage of floor area shall be calculated as only that portion of the lot indicated on the original construction plans for the mobilehome proper and its carport.

(3827-4/09, 3879-6/10)

Note: Ordinance No. 3827 (expired 4/15/10) and Ordinance No. 3879, effective from 5/3/10 to 5/3/11, temporarily defer the payment of certain Development Impact Fees.

- (b) Due date. The amount of tax due hereunder shall be due and payable at the time of issuance of the building permit for the construction of residential, commercial or industrial units or buildings, or for the construction or reconstruction of any mobilehome park. If such tax is not fully paid on or before the due date the permit is issued, the tax or the amount thereof not paid shall thereupon become delinquent. (3827-4/09, 3879-6/10)

Note: Ordinance No. 3827 (expired 4/15/10) and Ordinance No. 3879, effective from 5/3/10 to 5/3/11, temporarily defer the payment of certain Development Impact Fees.

- (c) Delinquency, penalty, interest. There shall be added to the tax for any unit or so much of the tax as becomes delinquent a penalty of twenty-five (25) percent which shall thereupon become payable in the same manner as the tax. The tax and penalty shall bear interest at the rate of .60 of 1 percent per month until paid. (3827-4/09, 3879-6/10)

Note: Ordinance No. 3827 (expired 4/15/10) and Ordinance No. 3879, effective from 5/3/10 to 5/3/11, temporarily defer the payment of certain Development Impact Fees.

- (d) Tax credit. The City Council may in its discretion grant a total or partial credit against the building excise tax where a dedication of land and/or improvements thereto is offered in conjunction with the construction of the residential, commercial or industrial units. (3827-4/09, 3879-6/10)

Note: Ordinance No. 3827 (expired 4/15/10) and Ordinance No. 3879, effective from 5/3/10 to 5/3/11, temporarily defer the payment of certain Development Impact Fees.

- (e) Exemption. The effective date for the issuance of any building permit otherwise subject to imposition of the tax imposed by this section shall relate to the date that actual construction was commenced or to the date any foundation permit was actually issued by the city, whichever event first occurred. Building permits so issued prior to the enactment of this section are exempt from the tax imposed hereby. (2297-6/78, 2324-11/78, 2720-9/84, 3827-4/09, 3879-6/10)

Note: Ordinance No. 3827 (expired 4/15/10) and Ordinance No. 3879, effective from 5/3/10 to 5/3/11, temporarily defer the payment of certain Development Impact Fees.

3.40.040 Operative date. The tax imposed by this Chapter shall apply to the construction of all residential, commercial and industrial units, and mobilehome parks for which a building or construction permit is issued on or after the effective date of this Chapter. (2297-6/78, 3827-4/09, 3879-6/10)

Note: Ordinance No. 3827 (expired 4/15/10) and Ordinance No. 3879, effective from 5/3/10 to 5/3/11, temporarily defer the payment of certain Development Impact Fees.

3.40.050 Exemptions. The following are excluded from the tax imposed by this Chapter:

- (a) The construction of any building by a nonprofit corporation exclusively for religious, educational, hospital or charitable purposes. (3827-4/09, 3879-6/10)

Note: Ordinance No. 3827 (expired 4/15/10) and Ordinance No. 3879, effective from 5/3/10 to 5/3/11, temporarily defer the payment of certain Development Impact Fees.

- (b) Any residential unit structural additions or modifications which cause less than a 50 percent increase in the existing gross floor space. Such additions or modifications which cause a 50 percent or more increase in the existing gross floor space shall subject all of the added gross floor space to the tax imposed by this Chapter. (3827-4/09, 3879-6/10)

Note: Ordinance No. 3827 (expired 4/15/10) and Ordinance No. 3879, effective from 5/3/10 to 5/3/11, temporarily defer the payment of certain Development Impact Fees.

- (c) The construction of any building or unit by any bank, including national banking associations, pursuant to Article XIII, section 27 of the Constitution of the state of California. (3827-4/09, 3879-6/10)

Note: Ordinance No. 3827 (expired 4/15/10) and Ordinance No. 3879, effective from 5/3/10 to 5/3/11, temporarily defer the payment of certain Development Impact Fees.

- (d) The construction of any building by an "insurer," as that term is defined in Article XIII, section 28 of the Constitution of the state of California. (3827-4/09, 3879-6/10)

Note: Ordinance No. 3827 (expired 4/15/10) and Ordinance No. 3879, effective from 5/3/10 to 5/3/11, temporarily defer the payment of certain Development Impact Fees.

- (e) The construction and occupancy of any building by the United States or any department or agency thereof; by the state of California or any department, agency or political subdivision thereof. (2297-6/78, Urg. Ord. 2299-7/78, 3827-4/09, 3879-6/10)

Note: Ordinance No. 3827 (expired 4/15/10) and Ordinance No. 3879, effective from 5/3/10 to 5/3/11, temporarily defer the payment of certain Development Impact Fees.

3.40.060 Tax liability--Enforcement. The taxes imposed by this Chapter are due from the person by or on behalf of whom a residential, commercial or industrial unit or building or a mobilehome park is constructed, whether such person is the owner or a lessee of the land upon which the construction is to occur. The City Treasurer shall collect the tax and any penalty and interest due hereunder. The full amount due under this Chapter shall constitute a debt to the city of Huntington Beach. An action for the collection thereof may be commenced in the name of the city in any court having jurisdiction of the cause. (2297-6/78, 3751-11/06, 3827-4/09, 3879-6/10)

Note: Ordinance No. 3827 (expired 4/15/10) and Ordinance No. 3879, effective from 5/3/10 to 5/3/11, temporarily defer the payment of certain Development Impact Fees.

3.40.070 Payment required for commencing construction. No person shall begin the construction of any residential, commercial or industrial unit or building or any mobilehome park in the city without first having paid the tax and any penalty and interest due the City or if any fees or taxes are due to the City under this Chapter. (2297-6/78, 3751-11/06, 3827-4/09, 3879-6/10)

Note: Ordinance No. 3827 (expired 4/15/10) and Ordinance No. 3879, effective from 5/3/10 to 5/3/11, temporarily defer the payment of certain Development Impact Fees.

3.40.080 Payment required for occupancy. No occupancy shall be issued for, and no person shall occupy or offer for occupancy, any residential, commercial or industrial unit or building or any space in a mobilehome park in the city unless the tax and any penalty and interest imposed upon the construction and occupancy thereof by this Chapter have been paid. (2297-6/78, 3827-4/09, 3879-6/10)

Note: Ordinance No. 3827 (expired 4/15/10) and Ordinance No. 3879, effective from 5/3/10 to 5/3/11, temporarily defer the payment of certain Development Impact Fees.

3.40.090 Refunds. Any tax, penalty or interest paid to the city under this Chapter for any building or unit of a building or mobilehome park which is not constructed shall be refunded upon application of the taxpayer and a showing to the satisfaction of the Director of Finance that the building or unit has not been constructed or construction commenced and that the building permit issued for the building or unit has been cancelled or surrendered or otherwise does not authorize the construction of the building or unit. (2297-6/78, 3827-4/09, 3879-6/10)

Note: Ordinance No. 3827 (expired 4/15/10) and Ordinance No. 3879, effective from 5/3/10 to 5/3/11, temporarily defer the payment of certain Development Impact Fees.

3.40.100 Disposition of proceeds--Fund created. All proceeds from the tax, penalty and interest collected under this chapter shall be paid into a special capital outlays fund of the city entitled "Library Service Fund" for acquiring, constructing, equipping, maintaining and staffing of libraries, and other City Council-approved cultural endeavors, which fund is hereby created. (2297-7/78, 3827-4/09, 3879-6/10)

Note: Ordinance No. 3827 (expired 4/15/10) and Ordinance No. 3879, effective from 5/3/10 to 5/3/11, temporarily defer the payment of certain Development Impact Fees.